



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2014-0436]

RIN 1625-AA09

Drawbridge Operation Regulation; Gulf Intracoastal Waterway,
St. Petersburg Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the Pinellas Bayway Structure "E" (SR 679)

Bridge, Gulf Intracoastal Waterway mile 113.0, St. Petersburg Beach, FL. This will extend the time period when the bridge is subject to periodic closings. During this extended time period the bridge will not open on demand.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2014-0436]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Robert Glassman, Seventh Coast Guard District, Bridge Branch, 305-415-6946, e-mail Robert.s.glassman@uscg.mil. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
§	Section Symbol
U.S.C.	United States Code

A. Regulatory History and Information

On August 11, 2014, we published a notice of proposed

rulemaking (NPRM) entitled, "Drawbridge Operation Regulations; Gulf Intracoastal Waterway, St Petersburg Beach, FL" in the Federal Register (79 FR 46740). We received 173 comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The Pinellas Bayway Structure "E" Bridge provides a vertical clearance of 25 feet at mean high water in the closed position and a horizontal clearance of 89 feet. Vessels with a height of less than 25 feet may pass through the bridge at any time. The current regulation, 33 CFR 117.287(d)(4), states Pinellas Bayway Structure "E" (SR 679) bridge, mile 113.0 at St. Petersburg Beach "shall open on signal, except that from 9 a.m. to 7 p.m. the draw need open only on the hour and 30 minutes past the hour." This modification will extend the time by two hours in the morning and two hours in the evening, allowing this Bridge to open on the hour and half-hour from 7 a.m. to 9 p.m., seven days a week and continue to open on demand all other times.

C. Discussion of Comments, Changes and the Final Rule

Of the 173 comments received, 171 were in favor of extending the half-hour schedule by two hours in the morning and two hours in the evening. Two comments opposed extending the scheduled opening period.

Two commenters asked if afternoon scheduled openings should end prior to 9 p.m. Vehicles exiting Fort de Soto Park to the mainland must use Pinellas Bayway Structure "E" Bridge. Fort de Soto Park closes at 8:30 p.m. Extending scheduled openings until 9 p.m. will reduce traffic for departing park visitors.

One commenter indicated that one hour is too long to wait for a bridge opening. This rule will provide for passage two times in an hour during the period of scheduled openings. From 7 a.m. to 9 p.m. the bridge will open on the hour and on the half hour.

One commenter voiced concern for the safety of vessels transiting to a dock or marina in a storm. Other comments recommended extending scheduled openings for the entire day, in part because it serves as a means of ingress and egress for emergency vehicles. Under Title 33 Code of Federal Regulations, Section 117.31, drawtenders are required to make reasonable efforts to have drawspans closed for emergency vehicles and opened for vessels in distress or seeking shelter from severe weather.

One commenter asked for an exception for boat parades. If an extended closure period is necessary for a special event, the bridge owner may request a temporary change to the drawbridge operating schedule.

No changes were made to the proposed regulatory text as a result of the comments. Therefore, paragraph (d)(4) of 33 CFR 117.287 will be revised to require opening on signal, except that from 7 a.m. to 9 p.m. the draw need open only on the hour and 30 minutes past the hour.

This rule will not unreasonably impact navigation. Both vehicle traffic and vessel traffic may need to adjust schedules to ensure that they are not unreasonably delayed.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

This rule is not a significant regulatory action because vessels may still transit the Bridge at scheduled intervals

and these changes will continue to meet the reasonable needs of navigation. Therefore, the rule will only have a minor impact on vessels transiting the Gulf Intracoastal Waterway in the vicinity of St. Petersburg Beach, Florida.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels transiting the Gulf Intracoastal Waterway. However, this action will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessels that can safely transit under the Bridge may do so at any time. Vessels unable to transit under the Bridge

will be able to transit the Bridge at specific intervals which can be taken into account by vessel owners and operators.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the "FOR FURTHER INFORMATION CONTACT", above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) .

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We analyzed this rule under that Order and determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a

State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a

substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12.Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13.Technical Standards

This rule does not use technical standards; therefore, we did not consider the use of voluntary consensus standards.

14.Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. In §117.287, revise paragraph (d) (4) to read as follows:

§117.287 Gulf Intracoastal Waterway.

* * * * *

(d) * * *

(4) Pinellas Bayway Structure "E" (SR 679) bridge, mile 113.0 at St. Petersburg Beach. The draw shall open on signal, except that from 7 a.m. to 9 p.m. the draw need open only on the hour and 30 minutes past the hour.

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Dated: February 27, 2015.

J. H. Korn,

Rear Admiral, U.S. Coast Guard,

Commander, Seventh Coast Guard District.

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Date: 3/19/2015]